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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------|------------------|
| 10/736,443   | 12/15/2003  | Yee Yang             | KCC 4972.2 (17,515C) | 3431             |
| 321  | 7590        | 09/01/2006           | EXAMINER             |                  |
| SENNIGER POWERS<br>ONE METROPOLITAN SQUARE<br>16TH FLOOR<br>ST LOUIS, MO 63102 |             |                      | HAND, MELANIE JO     |                  |
|  |             |                      | ART UNIT             | PAPER NUMBER     |
|  |             |                      | 3761                 |                  |

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/736,443

Applicant(s)

YANG ET AL.

Examiner

Melanie J. Hand

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/27/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed June 28, 2006 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding claim 1, Examiner has restated the rejection of claim 1 to clearly state which components of the teaching of Rosch anticipate the front and back side margins of the claimed invention. The rejection of claim 1 is a rejection under 35 U.S.C. 103 ("103 rejection") and Examiner acknowledged the deficiency of Rosch regarding attaching the trunk cover 114 to pant structure 12, and hence employed the secondary reference of Christoffel to remedy the deficiency. Applicant is reminded that analysis of the individual deficiencies of each reference used in a 103 rejection is not sufficient to overcome the rejection as the 103 rejection is in view of the combined teaching of the references. Examiner agrees that Rosch does not teach joint side margins wherein the pant structure 1 is joined to the trunk cover and has restated the rejection of claim 1 to address the limitation. With respect to applicant's argument that Christoffel fails to teach an absorbent assembly attached to a garment shell, again, not every reference employed in a 103 rejection is required to teach all of the limitations of a particular claim to be valid. This limitation is taught by Rosch in the form of waste containment structure 142 which comprises an absorbent assembly, and that structure with the assembly is attached to trunk cover 114, a garment shell, at the front and back waist margins.

With respect to applicant's arguments regarding claim 21, Examiner refers applicant to the rejection of claim 21 in the previous Office action in which Examiner acknowledges that Rosch does not teach that the side seams 187, 189 can be attached from the waist opening of

trunk cover 114 to less than about 50% of the length of the side seam with the remaining length being free of attachment, and continues, stating that it would be obvious to have such an arrangement as Rosch teaches both refastenable and non-refastenable side seams 187,189 and a combination of such types of seams can be accomplished with a reasonable expectation of success. It would be obvious to one of ordinary skill in the art do so for adjustability of fit. Examiner has restated the rejection of claim 21 to include this response in the interest of further clarifying Examiner's position.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on March 27, 2006 was filed after the mailing date of the Application on December 15, 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosch et al (U.S. Patent No. 6,115,847) in view of Christoffel et al (U.S. Patent Application Publication No. 2002/0087137).

With respect to **Claims 1-3,7,8,10,16,19,20,27,30,35,36**: Rosch teaches an active wear trunk garment 110 with a liquid-permeable trunk cover 114 having front and back panels, inner surface 111 and outer surface 113, laterally opposed front panel side margins 117 and 119, laterally opposed back panel side margins 123 and 125, and a waste containment structure 142 comprising a liquid-impermeable backsheet 158 having a garment-facing surface, a liquid-

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permeable bodyside liner 156 and absorbent core 160 sandwiched therebetween. ('847, Col. 8, lines 8-16) Trunk cover 114 has front waist, rear waist and crotch regions 131,133,149 as can be seen in Figs. 1-4. As can also be seen in Figs. 1-4, waste containment structure 142 is disposed generally within trunk garment 110. Rosch teaches that trunk cover 114 is joined to elastic members 143,145 at the waist regions ('847, Col. 10, lines 45-49), therefore Rosch does not teach that trunk cover 114 is releasably attached at the front and rear waist regions at the respective front and side margins.

Christoffel teaches a girl's swimsuit wherein an absorbent pant/bottom portion 98 is releasably attached to the upper portion/bodice 42 at the front and rear waist areas via hook and loop fasteners 92 to secure the pant portion and upper portion about the waist of the wearer and for greater ease in applying and removing said swimsuit. ('137, ¶¶ 0071-0074) This teaching of Christoffel, combined with the teaching of Rosch that trunk cover 114 has refastenable side seams 187 and 189 to allow securement about the waist of a wearer, would lead one of ordinary skill in the art to utilize hook and loop fasteners to releasably attach the outer cover 114 and pant structure 112 to one another at the front and back side margins (i.e. adjacent seams 187 and 189) taught by Rosch so as to more easily apply and remove the whole garment 110 as taught by Christoffel.

With respect to **Claim 4,28**: Rosch teaches pant structure 112 having left and right side panels 126, 128 respectively that extend from the front waist region 120 to the rear waist region 122. ('847, Col. 12, lines 4-12) Panels 126,128 are ultrasonically bonded and have non-refastenable seams so as to allow fastening of a front side panel to a corresponding back side panel, thus defining leg openings, as can be seen in Figs. 5,6. ('847, Col. 12, lines 18-21) As can also be

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seen in Figs. 5 and 6 pant structure 112 has front and back panel areas in addition to the side panels.

With respect to **Claim 5**: Rosch teaches leg openings defined by seams 187,189 in cover 114. ('847, Col. 11, lines 1-5) As can best be seen in Fig. 4, garment 110 has leg openings spaced apart inwardly from leg openings defined by cover 114.

With respect to **Claim 6,29**: Rosch teaches leg elastics 136,138 for pant structure 112. ('847, Col. 12, lines 25,26) Cover 114 is in the form of swimming trunks and as can best be seen in Fig.4 is designed to hang loosely about the legs of the wearer.

With respect to **Claims 9,14,15**: As can best be seen in Fig. 4, the crotch region of garment 110 is located inwardly of the crotch region 149 of cover 114 and not attached. Further, Rosch teaches cover 114 is configured as a pair of swimming trunks, wherein said trunks, as stated previously are intended to hang loosely about the legs of the wearer, whereas the garment contains leg elastics to fully encircle the legs of the wearer.

With respect to **Claim 12**: As can best be seen in Fig. 4, Rosch teaches that garment 110 has a waist opening defined by waist regions 131 and 133 corresponding to the waist regions of cover 114.

With respect to **Claims 13,34**: Rosch teaches pant structure 112. ('847, Col. 12, line 5)

With respect to **Claims 17,18,22,23,25**: Since Rosch teaches that the side panels are elastomeric and are capable of stretching to between 10-500% of their original length ('847, Col. 8, lines 55-60), Examiner is asserting that they are capable of creating an overlap in the range set forth by applicant in claim 23 (thus also falling within the range set forth in claim 22), in both the cases of non-refastenable and refastenable seams.

With respect to **Claims 21-24,26,31-33**: Please see the rejections of Claims 1 and 17 in addition to the following: Since Rosch teaches both non-refastenable and refastenable side seams 187,189, ('847, Col. 11, lines 1-5, 14,15), though Rosch does not teach using them in combination, it would be obvious to one of ordinary skill in the art to modify said side seams so as to contain both refastenable and non-refastenable portions, for example having a non-refastenable portion located above fasteners 96 on each side seam, including a configuration in which the refastenable portion of each side seam comprises 25-50% of the length of the seam. This modification can be accomplished with a reasonable expectation of success and would be desirable for adjustability of fit.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

